STATE OF MICHIGAN

COURT OF APPEALS

CALEB GRIFFIN, Plaintiff-Appellant,	UNPUBLISHED November 29, 2018
v	No. 340480 Genesee Circuit Court
SWARTZ AMBULANCE SERVICE, Defendant-Appellee, and	LC No. 14-103977-NI
SARAH ELIZABETH AURAND, Defendant.	

Before: M. J. KELLY, P.J., AND SAWYER AND MARKEY, JJ.

M. J. KELLY, J. (*dissenting)*.

The dispositive issue in this case is whether the driver of defendant's ambulance was providing treatment to plaintiff when she got into a motor-vehicle accident. Under MCL 333.20965(1), defendant is immune from ordinary negligence claims arising from its acts or omissions "in the treatment of a patient . . . ." Because I do not believe the driver's act of driving the ambulance through an intersection is part of plaintiff's treatment, I respectfully dissent.

MCL 333.20965 provides in relevant part:

> (1) Unless an act or omission is the result of gross negligence or willful misconduct, *the acts or omissions of a medical first responder, emergency medical technician*, emergency medical technician specialist, paramedic, medical director of a medical control authority or his or her designee, or, subject to subsection (5), an individual acting as a clinical preceptor of a department-approved education program sponsor while providing services to a patient outside a hospital, in a hospital before transferring patient care to hospital personnel, or in a clinical setting that are consistent with the individual's licensure or additional training required by the medical control authority including, but not limited to, services described in subsection (2), or consistent with an approved procedure for that particular education program *do not impose liability in the treatment of a patient on those individuals or any of the following persons*:

* * *

(d) The life support agency or an officer, member of the staff, or other employee of the life support agency. [Emphasis added.]

The term "treatment" is not defined by the statute, so reference to a dictionary definition is appropriate. See *Johnson v Pastoriza*, 491 Mich 417, 436; 818 NW2d 279 (2012). According to the *Oxford English Dictionary* (2d ed), "treatment" consists of "[m]anagement in the application of remedies; medical or surgical application or service." Thus, under the plain language of the statute if an individual's acts or omissions are undertaken in the management of the application of remedies or in medical or surgical application, then they would constitute "treatment." Here, however, the record reflects that at the time of the motor-vehicle accident the ambulance driver was not undertaking any action to manage plaintiff's injuries. Rather, she was merely transporting him to the hospital while the paramedic in the patient-compartment of the ambulance provided treatment. Accordingly, because no negligent treatment is alleged, I would conclude that no immunity is afforded to defendant under MCL 333.20965(1).

/s/ Michael J. Kelly